

HOUSE BILL 1761

By Sanderson

AN ACT to amend Tennessee Code Annotated, Title 57,  
Chapter 4 and Title 57, Chapter 3, relative to  
server and employee permits.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 57-3-703, is amended by deleting the section in its entirety and by substituting instead the following:

57-3-703.

(a) Any individual may be eligible for an employee permit by completing an application for such a permit on the forms provided by the commission. An applicant for an employee permit must demonstrate to the commission that the applicant is at least eighteen (18) years of age and is of good moral character pursuant to subsections (b) and (c).

(b) If an applicant meets one (1) or more of the following criteria, the applicant shall be presumed to not be of good moral character if:

(1) Other than for a crime described in subdivision (b)(2), the applicant has been convicted of a felony within the previous four (4) years;

(2)

(A) The applicant has been convicted of any crime relating to alcoholic beverages and beer, other than related to the sale of such beverages as provided in subdivision (b)(2)(B), schedules 1 and 11 controlled substances, controlled substance analogues or any sex-related crime or embezzlement within the previous eight (8) years; or

(B) The applicant has been convicted of any crime relating to the sale of alcoholic beverages or beer occurring within eight (8) years prior to the date of the application;

(3) The applicant has had an employee permit or any similar permit issued by the state, any local jurisdiction, or any foreign jurisdiction revoked by any issuing authority within the previous five (5) years; or

(4) The applicant has had an ownership interest in any licensee or permittee, licensed or permitted pursuant to § 57-3-203, § 57-3-204, § 57-3-207, § 57-4-101, or § 57-5-103 which has had its license or permit revoked by the issuing authority within the previous eight (8) years.

(c) If an applicant is presumed to not be of good moral character pursuant to subsection (b), then the applicant's application shall be initially denied. Within thirty (30) days of such initial denial, the applicant may request to be heard at the next available regularly scheduled meeting of the commission. At such meeting, the commission shall make a finding as to whether the applicant is of good moral character; provided that in making such finding, the commission may consider any evidence the commission deems relevant to the determination of whether the applicant is of good moral character. If the applicant does not request to be heard pursuant to this subsection (c) within the required period or if the commission makes a determination that the applicant is not of good moral character, then the application shall be denied and the applicant shall not reapply for an employee permit until the relevant time period described in subsection (b) has expired. If the commission, pursuant to this subsection (c), determines that an applicant is of good moral character and is at least eighteen (18) years of age, then the application may be approved by the commission.

(d) Notwithstanding any law to the contrary, if an applicant is charged with any crime described in subsection (b) and the applicant is placed on diversion pursuant to § 40-35-313, the applicant shall be issued an employee permit upon successful

completion of the diversion and the dismissal of the charge; provided, that the applicant is also at least eighteen (18) years of age.

(e) The commission may promulgate rules and regulations to enforce and administer this section pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. Tennessee Code Annotated, Section 57-3-704, is amended by deleting the section in its entirety and by substituting instead the following:

57-3-704.

(a) Any individual may be eligible for a server permit by completing an application for such a permit on the forms provided by the commission. An applicant for a server permit must demonstrate to the commission that the applicant meets the following requirements:

(1) Within one (1) year prior to the submission of the application the applicant has successfully completed a program of alcohol awareness training for persons involved in the direct service of alcohol, wine or beer by an entity certified by the commission to have an adequate training curriculum for alcohol awareness. If, in the determination of the commission, a state other than Tennessee is deemed to have an adequate program of alcohol awareness training, then the successful completion of such training in that state within one (1) year prior to the submission of an application to the commission for a server permit shall satisfy the requirement of alcohol awareness training;

(2) The applicant is at least eighteen (18) years of age; and

(3) The applicant is of good moral character pursuant to subsections (b) and (c).

(b) If an applicant meets one (1) or more of the following criteria, the applicant shall be presumed to not be of good moral character if:

(1) Other than for a crime described in subdivision (b)(2), the applicant has been convicted of a felony within the previous four (4) years;

(2)

(A) The applicant has been convicted of any crime relating to alcoholic beverages and beer, other than related to the sale of such beverages as provided in subdivision (b)(2)(B), schedules 1 and 11 controlled substances, controlled substance analogues or any sex-related crime or embezzlement within the previous eight (8) years; or

(B) The applicant has been convicted of any crime relating to the sale of alcoholic beverages or beer occurring within eight (8) years prior to the date of the application;

(3) The applicant has had a server permit or any similar permit issued by the state, any local jurisdiction, or any foreign jurisdiction revoked by any issuing authority within the previous five (5) years; or

(4) The applicant has had an ownership interest in any licensee or permittee, licensed or permitted pursuant to §§ 57-3-203, § 57-3-204, § 57-3-207, § 57-4-101, or § 57-5-103 which has had its license or permit revoked by the issuing authority within the previous eight (8) years.

(c) If an applicant is presumed to not be of good moral character pursuant to subsection (b), then the applicant's application shall be initially denied. Within thirty (30) days of such initial denial, the applicant may request to be heard at the next available regularly scheduled meeting of the commission. At such meeting, the commission shall make a finding as to whether the applicant is of good moral character; provided that in

making such finding, the commission may consider any evidence the commission deems relevant to the determination of whether the applicant is of good moral character. If the applicant does not request to be heard pursuant to this subsection (c) within the required period or if the commission makes a determination that the applicant is not of good moral character, then the application shall be denied and the applicant shall not reapply for a server permit until the relevant time period described in subsection (b) has expired. If the commission, pursuant to this subsection (c), determines that an applicant is of good moral character and meets the requirements of subdivisions (a)(1) and (2), then the application may be approved by the commission.

(d) Notwithstanding any law to the contrary, if an applicant is charged with any crime described in subsection (b) and the applicant is placed on diversion pursuant to § 40-35-313, the applicant shall be issued an employee permit upon successful completion of the diversion and the dismissal of the charge; provided that the applicant also meets the requirements of subdivisions (a)(1) and (2).

(e) The commission may promulgate rules and regulations to enforce and administer the provisions of this section pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. Tennessee Code Annotated, Section 57-3-207, is amended by adding the following as a new subsection (k) and by redesignating the current subsection (k) and each subsequent subsection accordingly:

(k) No winery shall employ any person in the serving of wine samples who does not possess a server permit from the commission. It is made the duty of the licensee to see that each person dispensing or serving wine samples in the winery possesses such permit, which permit must be on the person of such employee or on the premises of the

winery and subject to inspection by the commission or its duly authorized agent when the employee is engaged in the performance of that employee's duties for the licensee.

SECTION 4. Tennessee Code Annotated, Section 57-3-702, is amended by deleting the language “§ 57-4-204(h)” and by substituting instead the language “§§ 57-4-204(h) and 57-3-207”.

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6. This act shall take effect on July 1, 2014, the public welfare requiring it.